

Pt. 508

12 CFR Ch. V (1–1–03 Edition)

12 CFR part or section where identified and described	Current OMB control No.
584.2–2	1550–0063.
584.9	1550–0063.

12 CFR part or section where identified and described	Current OMB control No.
590.4(h)	1550–0078.

[60 FR 66716, Dec. 26, 1995, as amended by 61 FR 65178, Dec. 11, 1996; 62 FR 54764, Oct. 22, 1997; 62 FR 66261, Dec. 18, 1997; 63 FR 71211, Dec. 24, 1998; 65 FR 78901, Dec. 18, 2000; 66 FR 15017, Mar. 15, 2001; 66 FR 65819, Dec. 21, 2001; 67 FR 76298, Dec. 12, 2002; 67 FR 78151, Dec. 23, 2002]

EFFECTIVE DATE NOTE: At 67 FR 77916, Dec. 20, 2002, § 506.1 was amended in the table in paragraph (b) by adding an entry for § 563.41(c)(3) and (4), and by removing the entries for § 563.41(e) and § 563.42(e), effective Apr. 1, 2003. For the convenience of the user, the addition is set forth as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *	
(b) <i>Display.</i>	
12 CFR part or section where identified and described.	Current OMB control No.
* * * * *	
563.41(c)(3) and (4)	1550–0078
* * * * *	

PART 508—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

- Sec.
- 508.1 Scope.
- 508.2 Definitions.
- 508.3 Issuance of Notice or Order.
- 508.4 Contents and service of the Notice or Order.
- 508.5 Petition for hearing.
- 508.6 Initiation of hearing.
- 508.7 Conduct of hearings.
- 508.8 Default.
- 508.9 Rules of evidence.
- 508.10 Burden of persuasion.
- 508.11 Relevant considerations.
- 508.12 Proposed findings and conclusions and recommended decision.
- 508.13 Decision of the Office.
- 508.14 Miscellaneous.

AUTHORITY: 12 U.S.C. 1464, 1818.

SOURCE: 54 FR 49444, Nov. 30, 1989, unless otherwise noted.

§ 508.1 Scope.

The rules in this part apply to hearings, which are exempt from the adju-

dicative provisions of the Administrative Procedure Act, afforded to any officer, director, or other person participating in the conduct of the affairs of a savings association, affiliate service corporation, savings and loan holding company, or subsidiary of such a holding company, where such person has been suspended or removed from office or prohibited from further participation in the conduct of the affairs of one of the aforementioned entities by a Notice or Order served by the Office upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act, (12 U.S.C. 1818(g)).

§ 508.2 Definitions.

As used in this part—

(a) The term *Office* means the Office of Thrift Supervision.

(b) The term *Secretary* means the Secretary to the Office and any Assistant or Acting Secretary to the Office.

(c) The term *Notice* means a Notice of Suspension or Notice of Prohibition issued by the Office pursuant to section 8(g) of the Federal Deposit Insurance Act.

(d) The term *Order* means an Order of Removal or Order of Prohibition issued by the Office pursuant to section 8(g) of the Federal Deposit Insurance Act.

(e) The term *association* means a savings association within the meaning of section 2(4) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1462(4) (“HOLA”), an affiliate service corporation within the meaning of section 8(b)(8) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1818(b)(8) (“FDIA”), a savings and loan holding company within the meaning of section 10(a)(1)(D) of the HOLA, 12 U.S.C. 1467a(a)(1)(D) and a subsidiary of a savings and loan holding company (other than a savings association) within the meaning of section

Office of Thrift Supervision, Treasury

§ 508.6

10(a)(1)(G) of the Home Owners' Loan Act of 1933.

(f) The term *subject individual* means a person served with a Notice or Order.

(g) The term *petitioner* means a subject individual who has filed a petition for informal hearing under this part.

§ 508.3 Issuance of Notice or Order.

(a) The Office may issue and serve a Notice upon an officer, director, or other person participating in the conduct of the affairs of an association, where the individual is charged in any information, indictment, or complaint with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, if the Office, upon due deliberation, determines that continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association. The Notice shall remain in effect until the information, indictment, or complaint is finally disposed of or until terminated by the Office.

(b) The Office may issue and serve an Order upon a subject individual against whom a judgment of conviction, or an agreement to enter a pretrial diversion or other similar program has been rendered, where such judgment is not subject to further appellate review, and the Office, upon the deliberation, has determined that continued service or participation by the subject individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association.

§ 508.4 Contents and service of the Notice or Order.

(a) The Notice or Order shall set forth the basis and facts in support of the Office's issuance of such Notice or Order, and shall inform the subject individual of his right to a hearing, in accordance with this part, for the purpose of determining whether the Notice or Order should be continued, terminated, or otherwise modified.

(b) The Secretary shall serve a copy of the Notice or Order upon the subject individual and the related association

in the manner set forth in § 509.11 of this chapter.

(c) Upon receipt of the Notice or Order, the subject individual shall immediately comply with the requirements thereof.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991]

§ 508.5 Petition for hearing.

(a) To obtain a hearing, the subject individual must file two copies of a petition with the Secretary within 30 days of being served with the Notice or Order.

(b) The petition filed under this section shall admit or deny specifically each allegation in the Notice or Order, unless the petitioner is without knowledge or information, in which case the petition shall so state and the statement shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a petitioner intends in good faith to deny only a part of or to qualify an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) The petition shall state whether the petitioner is requesting termination or modification of the Notice or Order, and shall state with particularity how the petitioner intends to show that his continued service to or participation in the conduct of the affairs of the association would not, or is not likely to, pose a threat to the interests of the association's depositors or to impair public confidence in the association.

§ 508.6 Initiation of hearing.

(a) Within 10 days of the filing of a petition for hearing, the Office shall notify the petitioner of the time and place fixed for hearing, and it shall designate one or more Office employees to serve as presiding officer.

(b) The hearing shall be scheduled to be held no later than 30 days from the date the petition was filed, unless the time is extended at the request of the petitioner.

(c) A petitioner may appear personally or through counsel, but if represented by counsel, said counsel is required to comply with § 509.6 of this chapter.